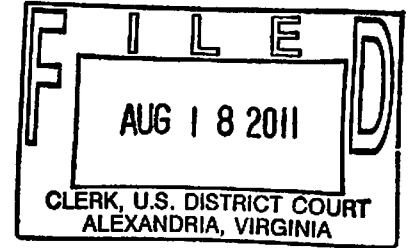


IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
ALEXANDRIA DIVISION



3M COMPANY,

Plaintiff,

v.

NAME.COM LLC, D/B/A PROTECTED  
DOMAIN SERVICES, et al.,

Defendants.

CIVIL ACTION NO. 1:11cv627 (TSE/JFA)

**CONSENT JUDGMENT**

The parties having agreed to the entry of this Consent Judgment, the Court hereby enters the following findings of fact, conclusions of law, and

ORDER:

1. 3M Company ("3M") is a Delaware corporation having its principal place of business at 3M Center, 2501 Hudson Road, St. Paul, Minnesota 55144.

2. Defendant GoDaddy.com, Inc. ("GoDaddy") is an Arizona corporation with a principal place of business at 14455 North Hayden Road, Suite 219, Scottsdale, Arizona 85260.

3. Defendant Domains by Proxy, Inc. ("Domains by Proxy") is an Arizona corporation with a principal place of business at 15111 North Hayden Road, Suite 160, PBM 353, Scottsdale, Arizona 85260.

4. Domains by Proxy is an affiliate company of GoDaddy. Together, GoDaddy and Domains by Proxy are referred to herein as "Defendants."

5. This Court has jurisdiction over the subject matter of this action pursuant to Section 39 of the Lanham Act, 15 U.S.C. § 1121; pursuant to Chapter 85 of the Judiciary and

Judicial Procedure Code, 28 U.S.C. §§ 1331 and 1338; and has supplemental jurisdiction over the state law claims under 28 U.S.C. § 1367(a).

6. 3M owns the mark and trade name 3M, as well as various other marks and names that include 3M (the "3M Mark"). 3M commenced use of the 3M Mark, in commerce which may lawfully be regulated by Congress, at least as early as 1906. Since that time, 3M has continuously used the 3M Mark in commerce.

7. 3M is one of the world's most diversified companies. Over the years, 3M has expanded its use of the 3M Mark and presently offers more than 55,000 products and services in a wide variety of fields under the 3M Mark.

8. For many years, 3M has displayed the 3M Mark as part of the following logo design displaying "3M" in red block Helvetica letters:














The logo is used in connection with almost every 3M product and service, and is displayed prominently on 3M's website at [www.3m.com](http://www.3m.com).

9. The 3M Mark is inherently distinctive and serves to identify and indicate the source of 3M's products and services to the consuming public.

10. The 3M Mark is famous throughout the United States, including in Virginia, and throughout the world.

11. The 3M Mark is widely recognized by the general consuming public of the United States as a designation of source of 3M's goods and services.

12. In accordance with federal law, 3M has registered the 3M Mark on the Principal Register of the United States Patent and Trademark Office. 3M now owns hundreds of U.S. registrations for the 3M Mark for numerous products and services. 3M's registrations include:

MARK	REG. NUMBER	GOODS
3M	405,413	(Int'l Class: 1) Adhesive Cements
3M	561,157	(Int'l Class: 3) Coated abrasives
	587,909	(Int'l Class: 21) Polishing sheet or strip material (frequently sold in the form of endless belts) comprising a flexible backing upon which is bonded a layer of resilient particles
	612,848	(Int'l Class: 17) Masking tape, cellophane tape, acetate fiber tape, and other pressure-sensitive adhesive tapes
	700,268	(Int'l Class: 1, 17) Light reflective materials in sheet, strip, and liquid form
3M	766,144	(Int'l Class: 1) Primer for adhesives
	793,456	(Int'l Class: 10) Dental restorative materials
	887,227	(Int'l Class: 5) Medical cold pack
	893,544	(Int'l Class: 6) Thin metallic strips for concealment in books or periodicals
	901,982	(Int'l Class: 3) Abrasive wheels
	906,050	(Int'l Class: 22) Synthetic fibers embedded in a resinous backing and sold in the form of sheets, discs, strips or continuous rolls, for general use in the industrial arts
3M	985,125	(Int'l Class: 10) Orthoptic eye patch
	1,042,074	(Int'l Class: 3) Soap pads
	1,361,367	(Int'l Class: 5) Culture media for use in biological laboratories
	1,398,525	(Int'l Class: 17) Plastic film used for making labels

<b>3M</b>	1,410,228	(Int'l Class: 9) Protective equipment-namely, disposable hoods and breathing tubes for supplying fresh air to painters during spray painting of vehicles
<b>3M</b>	1,416,082	(Int'l Class: 26) Bows made from decorative ribbon
<b>3M</b>	1,426,563	(Int'l Class: 17) Adhesive masking tape
<b>3M</b>	1,434,585	(Int'l Class: 9) Electrical connectors
<b>3M</b>	1,445,795	(Int'l Class: 1) Small ceramic shperes for industrial use as a filler
<b>3M</b>	1,467,108	(Int'l Class: 9) Prerecorded video tapes
<b>3M</b>	1,475,808	(Int'l Class: 9) Electromechanical control units for diluting and dispensing cleaning chemicals for use in the custodial market and units for preventing backflow to the water source therefrom
<b>3M</b>	1,492,238	(Int'l Class: 17) Reinforcing materials, not of metal, for use on electrical and communications cable
<b>3M</b>	1,531,747	(Int'l Class: 9) Fabric woven from ceramic fibers for use as a high temperature resistant textile in the aerospace and other industries
<b>3M</b>	1,540,295	(Int'l Class: 9) Optical fiber splicing kits, comprising an assembly tool and a module for holding the splice fibers together
3M	1,550,833	(Int'l Class: 9) Connectors for electrical and communications wires for use in the telephone industry
<b>3M</b>	1,584,213	(Int'l Class: 1) Fire extinguishing compositions
<b>3M</b>	1,584,310	(Int'l Class: 5) Teat dip for use as a protective barrier on the teats of dairy cows to keep common bacterial organisms known to cause mastitis from entering the teat canal
<b>3M</b>	1,611,779	(Int'l Class: 1) Adhesive coated plastic film for use in the printing industry for attaching printing plates to printing machines
3M	1,717,559	(Int'l Class: 8) hand held tool; namely, a dispenser for adhesive tape used in the construction industry
<b>3M</b>	1,831,027	(Int'l Class: 5) House mark for pharmaceuticals for the treatment of angina, arrhythmia, asthma, rheumatoid arthritis and osteoarthritis, acid indigestion and

		heartburn, inflammation, pain, muscle tenseness, food craving, metal poisoning and urinary septicemia
<b>3M</b>	1,958,973	(Int'l Class: 3) Carpet cleaning preparations
3M	1,958,974	(Int'l Class: 3) Carpet cleaning preparations
3M	1,959,107	(Int'l Class 4) Dust control spray and dust laying and absorbing compositions for use on spray booth walls for use in the automotive industry
<b>3M</b>	1,997,394	(Int'l Class: 17) Plastic sheet materials and laminations thereof to plastic for use in manufacturing limited use garments
3M	2,025,128	(Int'l Class: 16) Disposal wipes not impregnated with chemicals or compounds
3M	2,063,090	(Int'l Class: 9) Computer mouse pads
<b>3M</b>	2,072,006	(Int'l Class: 3) Preparations for cleaning, polishing, glazing, waxing, restoring or preserving finished surfaces of motorized vehicles; rubbing compound, gloss enhancer, plastic, chrome and metal polish, plastic cleaner, vinyl cleaner and restorer, tire and wheel cleaner, tire dressing for motorized vehicles
<b>3M</b>	2,829,934	(Int'l Class: 5) Insect repellent (Int'l Class: 8) Fishing hand tools, namely, cutters, clamps [ and pliers ] (Int'l Class: 28) Fishing tackle, equipment and accessories; namely, fly lines, leaders, tippets, reels, fly boxes, fishing poles and rods; [ fly tying tools and materials, namely, feathers, furs, tinsels, yarn, chenille and magnifiers; fishing bags, creels, ] cases and wallets, [ rod holders, ] rod and reel cases, reel pouches; [ full line of fishing flies; ] and golf gloves (Int'l Class: 38) Pre-recorded audio and video cassettes, discs, tapes and films featuring instruction and information about fishing
3M	3,208,474	(Int'l Class: 40) Manufacturer of transdermal patches containing pharmaceutical preparations to the order and specification of others
<b>3M</b>	3,457,691	(Int'l Class: 14) Clocks

All the registrations identified above are valid and subsisting, and most are incontestable pursuant to 15 U.S.C. § 1065.

**Domains By Proxy**

13. Domains by Proxy offers private registration services in connection with domain name registrations.

14. Subsequent to when 3M began use of its 3M Mark and the 3M Mark became famous, the domain ssswin.net was registered using Domains by Proxy's private registration services (the "DBP Privacy Domain").

15. Domains by Proxy's private registration service customer has used the DBP Privacy Domain to operate an online gambling website ("DBP Privacy Domain Website").

16. Domains by Proxy's private registration service customer promoted its online gambling activities by prominently using an identical or highly similar copy of the 3M Mark ("Infringing Mark").

17. 3M is not affiliated with Domains by Proxy or its private registration service customer, and has not authorized the use of the Infringing Mark on the DBP Privacy Domain Website.

18. This unauthorized use of the Infringing Mark on the DBP Privacy Domain Website is likely to cause confusion, to cause mistake, and/or to deceive customers and potential customers as to the origin, sponsorship, or approval of the DBP Privacy Domain Website by 3M.

19. This unauthorized use of the Infringing Mark is likely to cause dilution by blurring and dilution by tarnishment of 3M's famous 3M Mark.

**GoDaddy**

20. GoDaddy is a provider of Internet hosting services, among other services.

21. Subsequent to when 3M began use of its 3M Mark and the 3M Mark became famous, GoDaddy began hosting websites at the following domains: 3msoccer.com, 3msoccer.net, 3minter.com, 3minter.net, 168mmm.net, 333365.net, and 333456.net (the "GoDaddy Hosted Websites"). Each of the GoDaddy Hosted Websites was an online gambling website and prominently displayed an Infringing Mark.

22. 3M is not affiliated with GoDaddy or the owners of the GoDaddy Hosted Websites ("Registrants"), and has not authorized the use of the Infringing Mark on the GoDaddy Hosted Websites.

23. Registrants' unauthorized use of the Infringing Mark on the GoDaddy Hosted Websites is likely to cause confusion, to cause mistake, and/or to deceive customers and potential customers as to the origin, sponsorship, or approval of the GoDaddy Hosted Websites by 3M.

24. Registrants' unauthorized use of the Infringing Mark is likely to cause dilution by blurring and dilution by tarnishment of 3M's famous 3M Mark.

25. GoDaddy represents and warrants to 3M and to the Court that it has ceased providing Internet hosting services to the Registrants in connection with the GoDaddy Hosted Websites.

It is therefore **ORDERED** that:

(a) Domains by Proxy, its officers, agents, servants, employees, attorneys, and all other persons who are in active concert or participation with any of them are permanently enjoined:

(i) from providing private registration services for the DBP Privacy Domain:

(ii) from knowingly providing private registration services for any domain name that includes the mark 3M, MMM, or any other mark confusingly similar to the famous 3M Mark; and

(iii) from knowingly providing private registration services for any domain name used for a website that displays without 3M's consent the mark 3M, MMM, or any other mark confusingly similar to the famous 3M Mark.

(b) GoDaddy, its officers, agents, servants, employees, attorneys, and all other persons who are in active concert or participation with any of them are permanently enjoined:

(i) from providing hosting services, or any other service, to the Registrants in connection with the GoDaddy Hosted Websites;

(ii) from knowingly providing hosting services, or any other services, to any person in connection with any website that displays without 3M's consent the mark 3M, MMM, or any other mark confusingly similar to the famous 3M Mark; and

(iii) from knowingly providing hosting services, or any other services, for any domain name that includes without 3M's consent the mark 3M, MMM, or any other mark confusingly similar to the famous 3M Mark.

(c) If 3M believes in good faith that Defendants are providing hosting services, private registration services, or any other services in the future for any websites or domain names that infringe or dilute its famous 3M Mark, 3M shall, before taking any steps to enforce this Consent Judgment, provide Defendants reasonable notice and an opportunity to cure the situation in accordance with the following procedure. Defendants: (i) hereby provide 3M with a VIP email address of 3M@GoDaddy.com that 3M may use to provide such notice to Defendants, and (ii) within 5 days after entry of this Consent Judgment, identify 3M internally as a "VIP," such that



Defendants will consider 3M's correspondence a priority as specified herein. Notice from 3M under this paragraph shall include the domain name of the website 3M believes to infringe or dilute the 3M Mark and a brief description of the infringing material, including where reasonably available, a screen shot depicting the same. Defendants will respond to 3M with their decision within 24 hours after receiving the notice at the email address provided, unless the response date falls on a weekend or holiday, in which case Defendants will respond by the end of the next business day. If 3M's objection is not addressed to its satisfaction within that time, 3M may contact Defendants' Legal Department directly with its objection by emailing Legal@GoDaddy.com, who will consider and respond to 3M's objection in good faith, and within 48 hours after the time the Legal Department receives the notice at the email address provided, unless the response date falls on a weekend or holiday, in which case the Legal Department will respond by the end of the next business day. If 3M's objection is still not addressed to its satisfaction, it may then seek to enforce this Consent Judgment and/or pursue any other remedies that may be available under law.

(d) Within 30 days after entry of this Consent Judgment, Defendants shall file with this Court and serve on 3M a report in writing and under oath setting forth in detail the manner and form in which Defendants have complied with paragraphs (a) – (c) above.


(e) This is a final judgment, and each party hereby waives all rights to appeal from such final judgment and

(f) This Court shall retain jurisdiction over this Consent Judgment for the purpose of resolving any disputes arising from or under the terms of this Consent Judgment, and any violation of this Order shall be punishable as a contempt of Court, in addition to any and all other remedies available at law or in equity.

SIGNED and ENTERED this

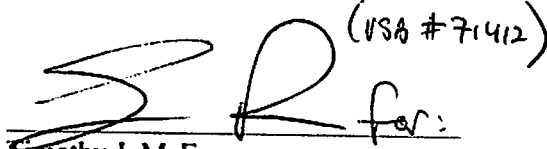
18<sup>th</sup>  
day of

August, 2011.

  
T. S. Ellis, III  
United States District Judge

UNITED STATES DISTRICT JUDGE

**AGREED AND ENTRY REQUESTED:**

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3M COMPANY**

**DEFENDANT GODADDY.COM, INC.**

By:

Name: NIMA JACOBS KELLY

Title: Deputy General Counsel

Date: 08.17.11

**DEFENDANT DOMAINS BY PROXY,  
INC.**

By:

Name: NIMA JACOBS KELLY

Title: Deputy General Counsel

Date: 08.17.11